

Instructor : **Professor Thaddeus Pope**
Course Title : **Health Law: Quality & Liability**
Section : **Law 9322, Section 1**
Format : **Take Home Midterm Exam**
Total Time for Exam : **6 hours**
Total Number of Pages : **6 pages**

Reference Materials Allowed

Open Book (all reference materials allowed)

Take-Home Exam Instructions

1. Please know your **correct Fall 2013 exam number** and include this number at the top of each page of your exam answer (for example, in a header). To locate your exam number, go to www.hamline.edu and follow the steps below. A graphic guide to locating your exam number is attached to these instructions.
 - Click on Logins in the header.
 - Go to Pipeline
 - Log in to the secure area
 - Enter your Student ID and PIN
 - Click Student Services
 - Click Registration
 - Click Student Detail Schedule
 - Select the appropriate term from the drop down menu
 - Exam Numbers are listed below Total Credit Hours at the top of the page
2. Confirm that you are using and have typed the **correct exam number** on your exam document.
3. You may download the exam from the course TWEN site any time after 12:01 a.m. on Thursday, October 10, 2013. All exams must be submitted within 6 hours of download. But, in any case, all exams must be submitted by the end of the midterm exam period, i.e. by 2:00 p.m. on Monday, October 14, 2013. Therefore, you will want to download your exam no later than 7:59 a.m. on Monday, October 14, 2013, to ensure that you have the full allowed 6 hours to complete your exam.
4. Write your answers to all three parts of the exam in a word processor. Save your document as a **single PDF file** before uploading to TWEN. Use your exam number as the name for the PDF file.

Instructions Specific to This Examination

GENERAL INSTRUCTIONS:

1. **Honor Code:** While you are taking this exam, you are subject to the Hamline University Code of Conduct. You may not discuss it with anyone until after the end of the entire exam period. It is a violation of the Honor Code to share the exam questions. Shred or delete the exam questions immediately upon completion of the exam. They will be reposted after the end of the exam period.
2. **Competence:** Accepting this examination is a certification that you are capable of completing the examination. Once you have accepted the examination, you will be held responsible for completing the examination.

3. **Exam Packet:** This exam consists of **6 pages**, including these instruction pages. Please make sure that your exam is complete.
4. **Identification:** Write your exam number on the top of each page of your exam answer.
5. **Anonymity:** The exams are graded anonymously. Do not put your name or anything else that may identify you (except for your exam number) on the exam. **Failure to include your correct exam number will result in a 10-point deduction.**
6. **Total Time:** Your completed exam is due within 6 hours of downloading it. If your exam is uploaded more than 6 hours after downloading the exam, your exam grade will be **lowered by one point** for every minute in excess of the 6 hours. If the timestamp on your uploaded exam indicates that you have exceeded the 6-hour limit by more than 15 minutes, the situation may be referred for a Code of Conduct investigation and potential discipline. Please save sufficient time to successfully upload your exam.
7. **Timing:** The exam has been written as a 90-minute exam. A student could write basically complete answers to all the questions in 90 minutes. But since this is a take-home exam, you will want to take some extra time (perhaps one hour) to outline your answers and consult your course materials. You will also want to take some extra time (perhaps one hour) to revise and polish your answers, such that you will not be submitting a “first draft.” In short, while this is a 6-hour take home, you really need not spend more than three hours on this exam.
8. **Scoring:** There are 75 total points on the exam. The final exam comprises 25% of your overall course grade, 75 of the 300 total course points.
9. **Open Book:** This is an OPEN book exam. You may use any written materials, including, but not limited to: any required and recommended materials, any handouts from class, PowerPoint slides, class notes, and your own personal or group outlines.
10. **Additional Research:** While you may use any materials that you have collected for this class, you are neither expected **nor are you permitted** to do any online or library research (e.g. on Lexis, Westlaw, Google, reference materials) to answer the exam questions.
11. **Format:** The exam consists of three parts:
 - PART ONE comprises a 35 point essay question.
 - PART TWO comprises a 25 point essay question.
 - PART THREE comprises a 15 point essay question.
12. **Grading:** All exams will receive a raw score from zero to 75. The raw score is meaningful only relative to the raw score of other students in the class. Your course letter grade is computed by summing the midterm, final, and quiz scores. I will post an explanatory memo and a model answer to TWEN a few weeks after the exam.

SPECIAL INSTRUCTIONS:

1. **Submission:** In your exam document create clearly marked separate sections for each of the problems:
 - Essay 1
 - Essay 2
 - Essay 3
2. **Pagination:** Start each essay on a separate page.

3. **Outlining Your Answer:** I strongly encourage you to use at least one-fourth of the allotted time per question to outline your answers on scrap paper before beginning to write. Do this because you will be graded not only on the substance of your answer but also on its clarity and conciseness. In other words, organization, precision, and brevity count. If you run out of insightful things to say about the issues raised by the exam question, stop writing until you think of something. Tedious repetition, regurgitations of law unrelated to the facts, or rambling about irrelevant issues will negatively affect your grade.
4. **Answer Format:** This is important. Use headings and subheadings. Use short single-idea paragraphs (leaving a blank line between paragraphs). Do not completely fill the page with text. Leave white space between sections and paragraphs.
5. **Answer Content:** Address all relevant issues that arise from and are implicated by the fact pattern and that are responsive to the “call” of the question. Do not just summarize all the facts or all the legal principles relevant to an issue. Instead, apply the law you see relevant to the facts you see relevant. Take the issues that you identify and organize them into a coherent structure. Then, within that structure, examine issues and argue for a conclusion.
6. **Citing Cases:** You are welcome but not required to cite cases. While it is sometimes helpful to the reader and a way to economize on words, do not cite case names as a complete substitute for legal analysis. For example, do not write: “Plaintiff should be able to recover under A v. B.” Why? What is the rule in that case? What are the facts in the instant case that satisfy that rule?
7. **Cross-Referencing:** You may reference your own previous analysis (e.g. B’s claim against C is identical to A’s claim against C, because __.” But be very clear and precise what you are referencing. As in contract interpretation, ambiguity is construed against the drafter.
8. **Balanced Argument:** Facts rarely perfectly fit rules of law. So, recognize the key weaknesses in your position and make the argument on the other side.
9. **Additional Facts:** If you think that an exam question fairly raises an issue but cannot be answered without additional facts, state clearly those facts (reasonably implied by, suggested by, or at least consistent with, the fact pattern) that you believe to be necessary to answer the question. Do not invent facts out of whole cloth.

Exam Misconduct

The Code of Conduct prohibits dishonest acts in an examination setting. Unless specifically permitted by the exam or proctor, prohibited conduct includes:

- Discussing the exam with another student
- Giving, receiving, or soliciting aid
- Referencing unauthorized materials
- Reading the questions before the examination starts
- Exceeding the examination time limit
- Ignoring proctor instructions

Essay Question 1

- 35 points
- Limit your answer to 1500 words.

On October 3, 2013, Tracy, who was 36 weeks pregnant, experienced mild labor contractions throughout the morning. So, she went to the Minnesota Memorial Medical Center. Her pregnancy had been uncomplicated, and an initial examination at MMMC revealed a reassuring fetal heart rate. But a few hours after Tracy's arrival, a fetal monitor indicated a precipitous drop in the fetal heart rate. The attending physician obtained Tracy's verbal consent to perform an emergency caesarean section, but did not explain the nature and risks involved with a caesarean section. Tracy was quickly taken to an operating room while her husband waited in a postoperative birthing center room. Tracy was soon unconscious from general anesthesia.

Lucas was delivered at 6:13 p.m. without a heart rate or spontaneous respiration, and with an Apgar score* of zero. The operating physician discovered that Tracy had suffered a placental abruption. A code team immediately began resuscitation efforts on Lucas. Every two minutes a member of the code team checked for a heartbeat. After 10 minutes, the operating physician ordered that the resuscitation be stopped.

The physician explained that while stopping, pausing, or delaying resuscitation would result in Lucas' death, his survival was unlikely in any case. While there was no applicable MMMC guideline, the attending noted that in the main published study, only 92 of 100 infants with Lucas' clinical condition survived after 10 minutes. And the eight infants that did survive were very impaired, with severe cerebral palsy, mental retardation, seizure disorders, microcephaly, and respiratory distress. While the physician did not consult with Tracy or her husband, in the physician's professional judgment, stopping resuscitation was the appropriate course of action.

Assess claims that Tracy and her husband have against MMMC and the attending physician both for EMTALA and for informed consent.

* An Apgar score is determined by evaluating the newborn baby on five simple criteria on a scale from zero to two, then summing up the five values. The resulting Apgar score ranges from zero to 10.

| Sign | Score | | |
|---------------------|--------------|-----------------------------|--------------------------|
| | 0 | 1 | 2 |
| Heart rate | Absent | Slow (< 100 beats/min) | > 100 beats/min |
| Respirations | Absent | Weak cry, hypoventilation | Good, strong cry |
| Muscle tone | Limp | Some flexion | Active motion |
| Reflex irritability | No response | Grimace | Cry or active withdrawal |
| Color | Blue or pale | Body pink, extremities blue | Completely pink |

Essay Question 2

- 25 points
- Limit your answer to 1000 words.

Plaintiff is the surviving spouse of Christy Hutchinson. On October 5, 2013, at around 11:30 p.m., Christy went to the Memorial Hospital emergency department in active labor. Thirty minutes later, lab results showed that Christy was suffering from XYZ syndrome. Approximately fifteen minutes later, Christy gave birth to Rachael. Shortly thereafter, the delivering physician learned that Christy was suffering from XYZ syndrome. Because this physician knew that XYZ syndrome can be fatal if not properly treated in an intensive care unit (ICU), she ordered Christy to be moved from the Memorial emergency department to the Memorial ICU.

But three hours after the delivery and the detection of the XYZ syndrome, Christy still had not been “transferred” to the ICU because a bed was not immediately available. By that time (2:30 a.m. on October 6), Memorial administrative staff determined that Christy was uninsured. Shortly thereafter, another emergency department attending physician “transferred” Christy from the emergency department to Memorial room B157, for 48 hours of postpartum care but not for stabilization of her XYX syndrome. When this “transfer” occurred, Memorial staff knew that Christy was suffering from life-threatening emergency medical conditions caused by XYZ syndrome which required stabilization in an ICU. Christy died at Memorial on October 6, 2013.

Assess Plaintiff’s EMTALA claims against any and all parties.

Essay Question 3

- 15 points
- Limit your answer to 1000 words.

Brendan sought medical assistance in relation to a very serious and debilitating condition of his lumbar spine. Dr. Goff, a Minnesota neurosurgeon, performed a surgical procedure on Brendan. The surgical procedure had certain inherent risks. One risk was a 1-in-300 chance of temporary and moderate local damage to nerves in the thighs, "femoral nerve neurapraxia." This results from lying face down on an operating table for an extended period of time. Another risk was a 1-in-15 chance of permanent and catastrophic paralysis resulting from damage to the spinal nerves.

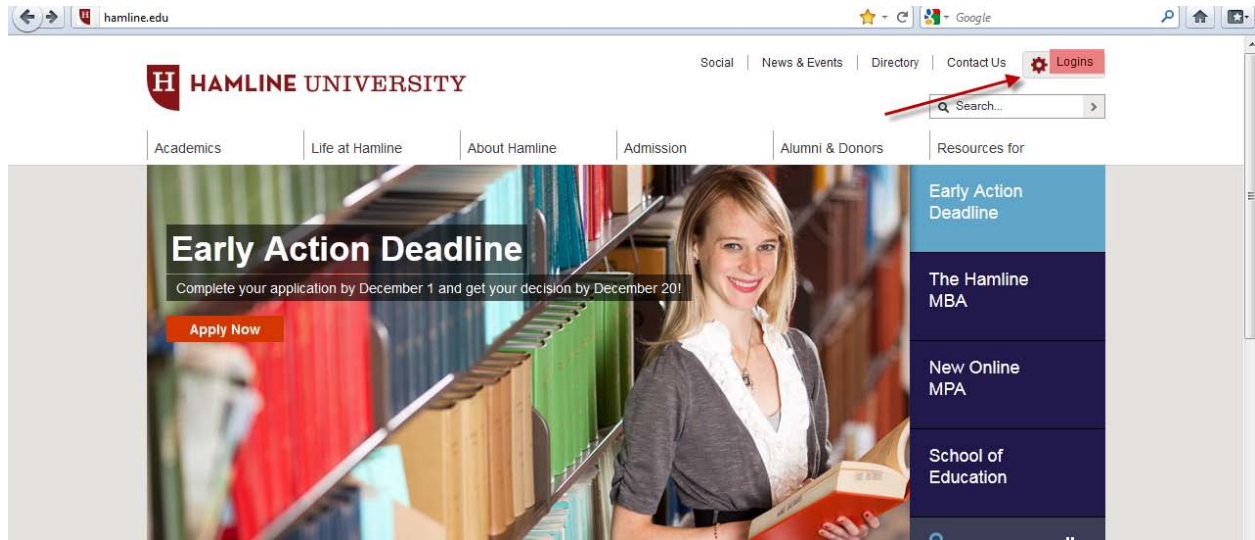
The surgical procedure was unsuccessful. Brendan's lumbar spine condition did not improve. The first risk materialized. Brendan sustained femoral nerve neurapraxia. This left him in moderate pain for a limited period of time. The second risk did not materialize.

Assess any claims that Brendan can plausibly assert.

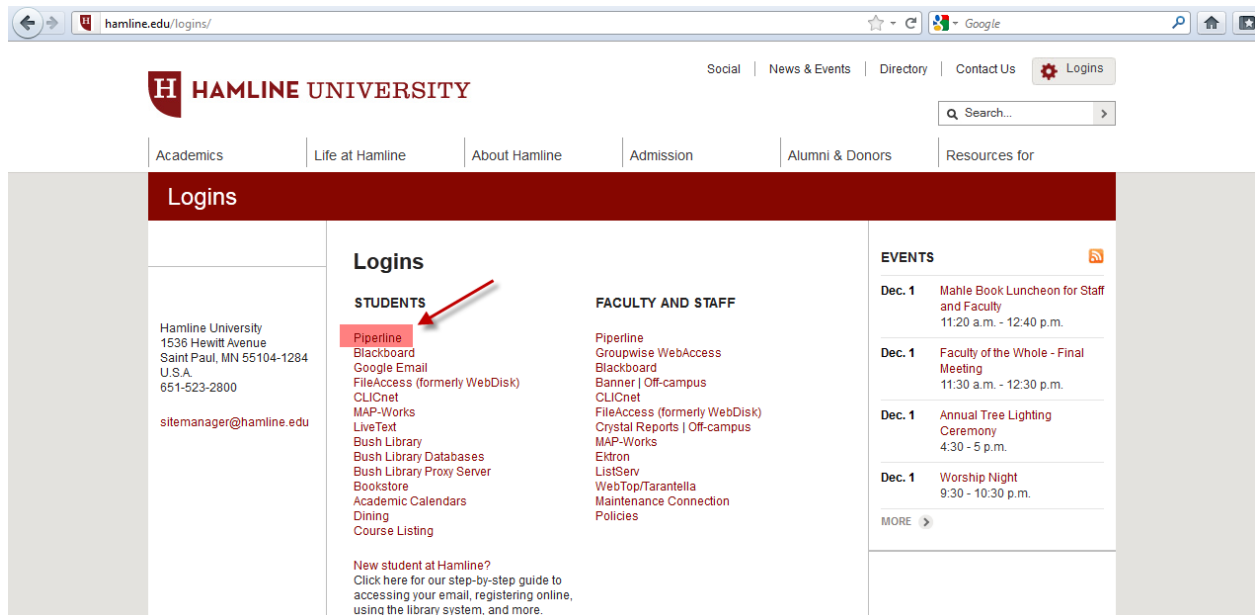
END OF EXAM

How to Find Your Final Exam Number via Pipeline

1. Go to www.hamline.edu
2. Click on the “Logins” button on the top of the right hand corner of the page.



3. Click on “Pipeline.”



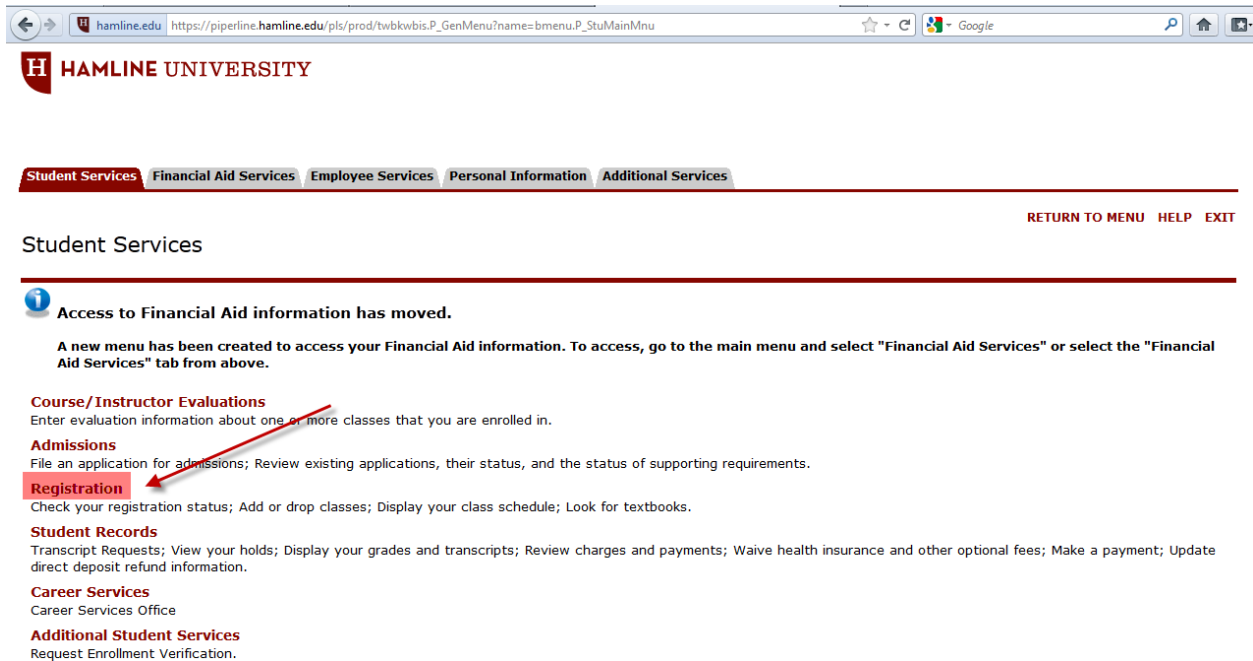
4. Enter your **Hamline ID Number** (this is the seven digit number starting with a nine) and your **PIN**. Click **“Login.”** Remember that this is case sensitive. (If this is your first time logging into Pipeline, you will be taken to a page where you will create a new password.)

The screenshot shows a web browser window with the URL `https://pipeline.hamline.edu/pls/prod/twbkwbis.P_WWWLogin`. The Hamline University logo is in the top left. A "HELP" link is in the top right. The page title is "User Login". A message box contains instructions: "Please enter your Hamline ID Number and your Personal Identification Number (PIN). Case is sensitive, so be sure to type your PIN exactly as created. Do not include dashes or other punctuation. When finished, click Login." Below this, it says "To ensure successful navigation throughout the system, please use the available links. When you are finished, please Exit and close your browser to protect your privacy." and "Never share your PIN with anyone!". There are two input fields: "Hamline ID Number:" and "PIN:". Red arrows point to these fields. Below the fields are "Login" and "Forgot PIN?" buttons. At the bottom, it says "RELEASE: 8.4.2".

5. Click **“Student Services.”**

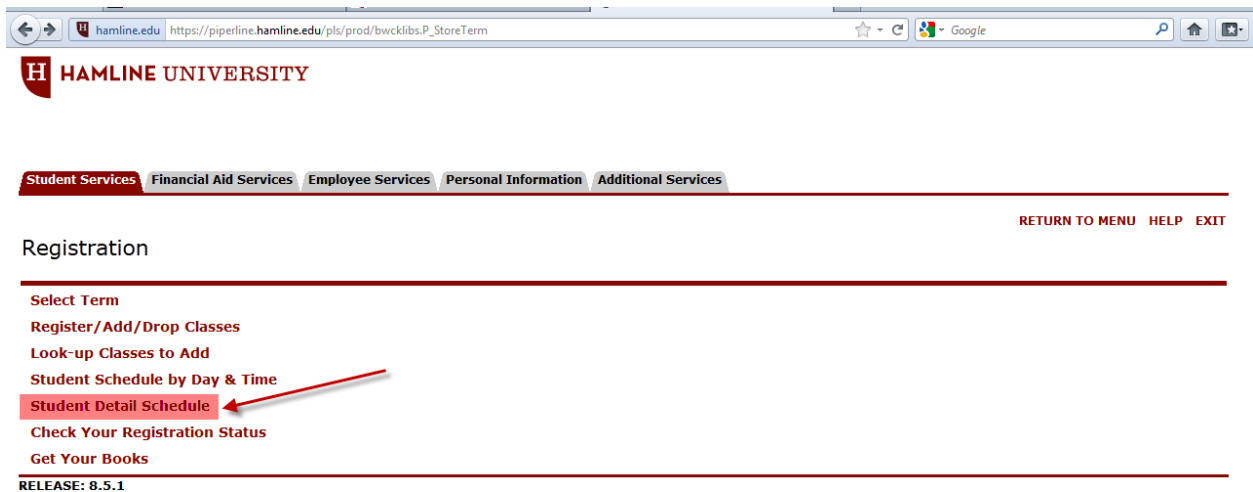
The screenshot shows a web browser window with the URL `https://pipeline.hamline.edu/pls/prod/twbkwbis.P_GenMenu?name=bmenu.P_MainMnu&msg=WELCOME+`. The Hamline University logo is in the top left. A navigation menu at the top includes "Student Services", "Financial Aid Services", "Employee Services", "Personal Information", and "Additional Services". A "HELP EXIT" link is in the top right. The page content starts with "Welcome, [blank] to the Hamline Pipeline System! Last web access on [blank]". Below this are sections for "Services for Admitted Students" (Pay your deposit; Waive health insurance and other optional fees; Provide immunization documentation; Update your address and contact information; View your financial aid award; Use Roommate Finder), "Student Services" (Register; View your academic records and Financial Aid; View account info; Waive health insurance and other optional fees; Perform Course/Instructor Evals; Request Enrollment Verification; Request a Transcript; Update direct deposit refund information; Look for textbooks), and "Financial Aid Services" (Review the status of your financial aid applications; Check status of document requirements; Review loans). A red arrow points to the "Student Services" link in the list.

6. Click “Registration.”



The screenshot shows the Hamline University website. At the top, there is a navigation bar with the following tabs: **Student Services**, **Financial Aid Services**, **Employee Services**, **Personal Information**, and **Additional Services**. Below the navigation bar, the page title is "Student Services". A message states: "Access to Financial Aid information has moved. A new menu has been created to access your Financial Aid information. To access, go to the main menu and select 'Financial Aid Services' or select the 'Financial Aid Services' tab from above." Below this message, there is a list of services: **Course/Instructor Evaluations**, **Admissions**, **Registration** (highlighted with a red box and a red arrow pointing to it), **Student Records**, **Career Services**, and **Additional Student Services**. The "Registration" service description is: "Check your registration status; Add or drop classes; Display your class schedule; Look for textbooks."

7. Click “Student Detail Schedule.”



The screenshot shows the Hamline University website. At the top, there is a navigation bar with the following tabs: **Student Services**, **Financial Aid Services**, **Employee Services**, **Personal Information**, and **Additional Services**. Below the navigation bar, the page title is "Registration". A list of options is displayed: **Select Term**, **Register/Add/Drop Classes**, **Look-up Classes to Add**, **Student Schedule by Day & Time**, **Student Detail Schedule** (highlighted with a red box and a red arrow pointing to it), **Check Your Registration Status**, and **Get Your Books**. At the bottom of the page, it says "RELEASE: 8.5.1".

8. You will then need to select the appropriate term from a drop-down menu (Fall 2011).

9. Your **Final Exam Number** will be located under the **Total Credit Hours** at the top of the page.

hamline.edu https://pipeline.hamline.edu/pls/prod/bwskfshd.P_CrseSchdDet

HAMLINE UNIVERSITY

Student Services Financial Aid Services Employee Services Personal Information Additional Services

RETURN TO MENU HELP EXIT

Student Detail Schedule: Fall 2011
Dec 07, 2011 01:05 pm

Total Credit Hours: 8.000
Exam Numbers: Mid: Final: [redacted]

Civil Procedure I - LAW 9111 - 3
Associated Term: Fall 2011
CRN: 12930
Status: **Web Registered** on May 04, 2011
Assigned Instructor:
Grade Mode: Normal Grading Mode

Make sure that you are looking under the appropriate "Associated Term" (Fall 2011). You will find your assigned anonymous number under "Total Credit Hours" next to "Final."

Everyone needs their final exam number to take the exam.

You will use the same exam number for all of your exams.

TWEN – View as a Student

1. Log on to Westlaw as normal (www.lawschool.westlaw.com).
2. Select the TWEN tab.
3. Under your log-in information in the upper left corner, select the option to view as a student.

The screenshot shows the Westlaw website interface. In the top left corner, under the 'WELCOME' section, there is a 'View as:' dropdown menu with 'Faculty' selected and 'Student' highlighted. A callout box points to the 'Student' option with the text: 'To view the page as a student, click the radial button next to "Student." Some items may no longer be viewable from the "student" view (i.e., exams not released, editing fields, etc.)'. The main content area displays a 'Drop Box' table with the following data:

| Assignment Title | Due Date | Status | Properties | Points Possible | Weight | Actions |
|---|-------------------|--------|------------|-----------------|--------|---|
| <input type="checkbox"/> LRW III - Transactional Final Exam | 4/30/2012 6:00 PM | ✓ | I HD AN | 100.00 | N/A | Enter Grades Edit |

4. Once an exam has hit the time and date on which it should become available, students will then be able to see it in the "Assignment Drop Box."

lawschool.westlaw.com/gradebook/assignmentdropbox.aspx?courseid=131720

Westlaw

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CUSTOMER SUPPORT >>> View full calendar

Westlaw > TWEN > Legal Research and Writing III > Grade Book > Assignment Drop Box

Assignment Drop Box

Current TWEN time: Thursday, April 05, 2012 at 10:53 AM Times displayed in Central Time.

Megan Koltes Manage Anonymous ID's

| Assignment/Quiz | Submitted | Version | Comments | Grade |
|--|-----------|---------|---------------|--------------|
| LRW III - Transactional Final Exam Due: 4/30/2012 6:00 PM (Mon) Time until Due: 25 days, 7 hours, 6 minutes <input type="button" value="Submit"/> | | | No Submission | Not Released |
| Absences: 0 | | | | Total: |

WELCOME
Megan Koltes Hamline University School of Law
View as: Faculty Student
SIGN OFF >>> View full calendar School Contacts >

NAVIGATION
Legal Research and Writing III (Spring 2012) STUDENT VIEW
Assignment Drop Box
CALI Lessons
Course Materials
E-Mail Options
Forums
Quizzes
Sign-Up Sheets
Syllabus
Web Links

5. The student will be prompted to type in his/her anonymous I.D. to access the exam.

lawschool.westlaw.com/Gradebook/AnonymousIdEntry.aspx?courseId=131720&assignmentId=79039&returnUrl=AssignmentDisplay

Westlaw

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Westlaw > TWEN > Legal Research and Writing III > Grade Book > Anonymous Id Entry

Anonymous ID

Anonymous ID for Megan Koltes

Enter an anonymous ID to access this assignment.

Note: Your professor is using anonymous grading. You should include only your anonymous ID on your submissions. Please ensure that your name does not appear anywhere on your work or in the file properties embedded with your submission.

If you have questions about removing potentially identifiable information (metadata) from your file, please consult the help file for your specific word processor or contact the manufacturer of the software you used to create the document.

Anonymous ID

WELCOME
Megan Koltes Hamline University School of Law
View as: Faculty Student
SIGN OFF >>> View full calendar School Contacts >

NAVIGATION
Legal Research and Writing III (Spring 2012) STUDENT VIEW
Assignment Drop Box
CALI Lessons
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E-Mail Options
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Sign-Up Sheets
Syllabus
Web Links

6. If the exam is a timed exam, the student will be given instructions stating as such. (The exam does not boot students out after the maximum amount of time; rather, the TWEN time stamps when a student accesses an exam and when a student submits an exam.)

The screenshot shows the Westlaw interface for a timed assignment. The breadcrumb trail is: Westlaw > TWEN > Legal Research and Writing III > Grade Book > Timed Assignment. The page title is "Timed Assignment". A notification box states: "Timed Assignment Notification for Megan Koltes". A note explains that clicking "START" will place a time stamp and that the administrator will know the length of time it took to make the final submission. The instructions state: "This is a timed exam. You have 24 hours to complete this exam beginning from the time you access the exam." Below the instructions are "Start" and "Cancel" buttons. A callout box points to the instructions with the text: "The instructions for time limits will appear here."

7. The student will be able to access the exam by downloading the attached file.

The screenshot shows the Westlaw interface for an assignment drop box. The breadcrumb trail is: Westlaw > TWEN > Legal Research and Writing III > Grade Book > Display Assignment. The page title is "Assignment Drop Box". The assignment is titled "LRW III - Transactional Final Exam" and is due on Monday, April 30, 2012 at 6:00 PM. The page is divided into "Grading Information" and "Submission Information". The "Grading Information" includes: Points Possible: 100.00, Grades have not been released, and This assignment requires anonymous submission. The "Submission Information" includes: Resubmissions are currently allowed, Submissions are allowed after the due date, and Honor code acceptance is required for submission. There is an "Attached Files" section with a link to "Swift.Exam.Drafting.Final.Spring12.docx". A "Time Elapsed since Started" section shows "0 days, 0 hours, 17 minutes". At the bottom, there are "Submit Assignment" and "Return to Drop Box" buttons. Two callout boxes provide instructions: "Students will be able to attach their answers/essay/letter and submit it on TWEN." (pointing to the "Submit Assignment" button) and "Students can access the exam by clicking on the attached file to download." (pointing to the "Swift.Exam.Drafting.Final.Spring12.docx" link).

8. The student will be able to attach their submission by clicking “Submit Assignment” and attaching their submission on the following webpage by clicking “Browse.”

The screenshot shows the 'Assignment Drop Box' interface. Key elements include:

- Header:** Hamline University School of Law, View as: Faculty/Student, SIGN OFF, View full calendar, School Contacts.
- NAVIGATION:** Test - Current (Spring 2012) STUDENT VIEW, Assignment Drop Box, Calendar, Course Materials, Customized Polling, Syllabus, Wiki, Document Quizzes, E-Mail Options, Forums, Legal News, Live Discussion, Quizzes, Sign-Up Sheets, Web Links.
- Assignment Details:** Submit Your Assignment, Testing Submission Process, View Assignment Details, Due on Tuesday, April 10, 2012 at 2:54 PM, Time Elapsed since Started: 0 days, 0 hours, 0 minutes.
- Note:** Your professor is using anonymous grading, so you should include only your identification number on your submissions.
- Message to course administrator(s):** I have attached my final draft of my exam.
- Upload your submission:** Note: The combined attachment(s) may not exceed 3 megabytes. A 'Browse' button is highlighted.
- Buttons:** Submit, Cancel.

Callouts provide additional instructions:

- Students can see how much time has elapsed since they began the exam (pressed "Start") to figure how much time they have remaining before submitting.
- By clicking on the "Browse" button, students may select a final version of their exam from their computer and attach it.
- After attaching the answered exam or completed essay, students can click "Submit."

9. After submitting the attached exam/essay, students can view the time stamps on their assignment on the proceeding webpage. This will show when the student first hit the “Start” button and when the student hit the “Submit” button. (This is crucial for timed tests.)

The screenshot shows the 'Assignment Drop Box' submission history page. Key elements include:

- Header:** Westlaw, HOME, WESTLAW NEXT, WESTLAW, TWEN, LAW SCHOOL EXCHANGE™, MY ePRODUCTS, BOOKSTORE, CUSTOMER SUPPORT, View full calendar.
- WELCOME:** Megan Koltes, Hamline University School of Law, View as: Faculty/Student, SIGN OFF, View full calendar, School Contacts.
- NAVIGATION:** Test - Current (Spring 2012) STUDENT VIEW, Assignment Drop Box, Calendar, Course Materials, Customized Polling, Syllabus, Wiki, Document Quizzes, E-Mail Options, Forums.
- Assignment Drop Box:** Current TWEN time: Tuesday, April 10, 2012 at 2:52 PM, Times displayed in Central Time.
- Submission History Table:**

| Assignment/Quiz | Submitted | Version | Comments | Grade |
|--|-------------------------|---------|----------|--------------|
| Testing Anon ID | | | | Not Released |
| Due: 1/28/2012 8:00 AM (Sat) | | | | |
| Time until Due: 0 days, 0 hours, 0 minutes | | | | |
| | 1/27/2012 8:24 AM (Fri) | Final | | Not Released |
| Test 2 | | | | Not Released |
| Due: 1/28/2012 8:00 AM (Sat) | | | | |
| Time until Due: 0 days, 0 hours, 0 minutes | | | | |
| Testing Submission Process | | | | Not Released |
| Due: 4/10/2012 2:54 PM (Tue) | | | | |
| Started: 4/10/2012 2:51 PM (Tue) | | | | |
| Time until Due: 0 days, 0 hours, 1 minute | | | | |
| Submission Duration: 0 days, 0 hours, 1 minute | 4/10/2012 2:52 PM (Tue) | Final | | Not Released |
- Absences:** 0
- Total:**

Callout: After submitting the finished exam/essay, students will be brought to a page where they can view the time stamps on their exam.